

Royce Corley  
Reg. No. 68011-054  
Federal Correctional Institution  
33½ Pembroke Road  
Danbury, CT 06811-3099

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**MEMO ENDORSED**

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DATE FILED: May 17, 2018

Honorable Katherine Polk Failla  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, NY 10007

Re: Corley v. Wittner, et al.  
15 Civ. 9621 (KPF)

Judge Failla:

I respectfully request an order to compel the Court Clerk to enter the default of Defendants Honorable Bonnie G. Wittner, J.S.C., Michael J. Barry, Ports & Files, Inc., and the City of New York, for failure to plead or otherwise defend in a timely manner pursuant to Fed. R. Civ. P. 55(a)("[w]hen a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend ..., the clerk must enter the party's default"). "The entry of default is therefore not discretionary." Bricklayers & Allied Craftworkers Local 2 v. Moulton Masonry & Constr., LLC., 779 F.3d 182, 186 (2d Cir. 2015). See Docket No. 56-58, 63-65.

Respectfully submitted,

Royce Corley

Application DENIED. Each of the defendants against whom Plaintiff seeks an entry of default has, in fact, responded by submitting letters requesting pre-motion conferences or leave to file motions to dismiss. (See Dkt. #54, 76 in No. 15 Civ. 9621, and Dkt. #138 in No. 15 Civ. 1800). Rule 4.A of the Court's Individual Rules of Practice in Civil Cases establishes that the "submission of a pre-motion letter concerning a motion to dismiss will stay the defendant's time to answer or otherwise move with respect to the Complaint." Because each of the defendants has submitted pre-motion letters concerning anticipated motions to dismiss, their time to answer the Complaint has been stayed. Plaintiff's request for an entry of default is therefore denied.

Dated: May 17, 2018  
New York, New York

SO ORDERED.

A handwritten signature in blue ink, reading "Katherine Polk Failla".

HON. KATHERINE POLK FAILLA  
UNITED STATES DISTRICT JUDGE

*A copy of this Order was mailed by Chambers to:*

Royce Corley  
Reg. No. 68011-054  
FCI Danbury  
33 1/2 Pembroke Rd.  
Danbury, CT 06811